

CITY OF WEST HAVEN
HONORABLE JOHN M. PICARD, MAYOR

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ARTICLE 1: GENERAL PROVISIONS

SECTION 1: GENERAL PROVISIONS

1.1 AUTHORITY

This Regulation is adopted in accordance with the provisions of Chapter 124 Zoning, Section 8-2 Regulations of the General Statutes of the State of Connecticut,

1.2 PURPOSES

The purposes of the City of West Haven, Connecticut Zoning Regulations are to:

- 1.2.1 Promote the health, safety, morals and general welfare of the community; and
- 1.2.2 Lessen congestion in the streets; and
- 1.2.3 Prevent overcrowding of land and avoid undue concentration of population; and
- 1.2.4 Facilitate adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and
- 1.2.5 Conserve the value of buildings and encourage the most appropriate use of the land throughout the city; and
- 1.2.6 Provide for public health, comfort, and general welfare in living and working conditions; and
- 1.2.7 Regulate and restrict the location of trades and industries and the location of buildings designed for specified uses; and
- 1.2.8 Regulate and limit the height and bulk of building hereafter erected; and
- 1.2.9 Provide aesthetic standards for new buildings and dwellings to be built in the City of West Haven; and
- 1.2.10 Regulate and determine the area of yards, courts and other open spaces; and
- 1.2.11 Regulate and restrict the location of trades and industries; and
- 1.2.12 Regulate the location of buildings designed for specific uses within the city, and
- 1.2.13 Divide the city into use categories commonly known as zoning districts or zones.

1.3 TITLE, ESTABLISHMENT AND SCOPE OF CONTROLS

1.3.1 TITLE

This document shall be known and cited as the City of West Haven Zoning Regulation.

1.3.2 ESTABLISHMENT AND SCOPE OF CONTROLS

In all Districts, after the effective date of this Regulation, any new buildings or other structures or any tract of land shall be used, constructed or developed only in accordance with the use, bulk, and all other applicable standards of this Regulation.

Except as otherwise provided in Sections 80-81 - Non-Conforming Uses, Lots or Structures:

1. The use of any existing building or other structure shall be not be changed or extended.
2. The use of any existing tract of land shall not be changed, or enlarged, or
3. Any existing building or other structure shall be enlarged, altered, converted, reconstructed, or relocated only in accordance with the use, bulk, and all other applicable standards of this Regulation.

1.4 ESTABLISHMENT OF DISTRICTS

In order to carry out the purpose and provisions of this Regulation the following Districts are hereby established:

RESIDENCE DISTRICTS

- R-1 Single Family Detached Residence
- R-2 Single Family Detached Residence
- R-3 One-Two-Three Family Residence
- R-4 Multi-Family Residence
- R-5 Multi-Family Residence

COMMERCIAL DISTRICTS

- NB Neighborhood Business
- RB Regional Business
- CBD Central Business District
- SCR Shoreline Commercial Retail

INDUSTRIAL DISTRICTS

- LM Light Manufacturing
- IPD Industrial Development

DESIGN DISTRICTS

- RPD Residential Design
- RCPD Residential – Commercial Design
- CD Commercial Design
- SRR Shoreline Retail/Residential Design
- PRD Planned Research and Development
- TOD Transit Oriented Design
- WD Waterfront Design

OTHER DISTRICTS

- OS Open Space
- PF Public Facilities
- PVD Planned Village District
- CAM Coastal Area Management (On Separate Map)
- FLOOD FEMA Flood Prevention (On Separate Map)

1.5 INCORPORATION OF MAPS

The location and boundaries of the Districts established by these Regulations are shown upon zoning maps, which are hereby incorporated into the provisions of these Regulations. The zoning maps in their entirety, including all amendments thereto, shall be as much a part of this Regulation as if fully set forth and described herein.

1.6 INTERPRETATION OF PROVISIONS

In interpreting and applying the provisions of these Regulations, such provisions shall be considered as the minimum requirements:

- 1.6.1 To promote and protect public health, safety, and general welfare, as set forth in this Article and in the statements of legislative intent for the respective districts and other regulations, and
- 1.6.2 To provide a gradual remedy for existing conditions which are detrimental thereto.

1.7 WHEN PROVISIONS CONFLICT

Whenever any provisions of these Regulations and any other provisions of law, whether set forth in this or in any other law, ordinance, or resolution of any kind, impose overlapping of contradictory regulations over the use of the land, or over the use or bulk of buildings or other structures, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. In addition, in those instances where two or more provisions appear to apply, that which is more specific shall control that which is more general in nature.

1.8 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

1.8.1 Unless otherwise indicated the zoning district boundary lines are the centerlines of streets, the middle of the channel of waterways, the centerline of main tracks of railroad lines, or the centerlines of utility rights-of-way. Zoning Districts shall include land under rivers, streams, lakes, ponds or tidewaters, lying within them or within any extension or addition by natural or artificial means, to the shoreline adjacent thereto.

1.8.2 In addition, the boundary of a zoning district shall be interpreted as following property lines existing at the time of adoption of the zoning map, or any amendment thereto. Where such an interpretation of the map would create an unreasonable distortion of the district, the boundary shall follow a line which is most consistent with adjoining lines.

1.9 LOTS IN MORE THAN ONE ZONE

Where a *lot* of record of less than two acres at the time of passage of this Regulation or any amendment thereto is mapped into two or more zoning districts, the district that incorporates the majority of the *lot area* shall be deemed to be the controlling zoning district. If a *lot* is two or more acres, each portion shall be considered as a separate *lot* for the purposes of zoning.

1.10 PRE-EXISTING LOTS AND STRUCTURES

In all residential districts, no building permit shall be issued with respect to any pre-existing residential *lot* without first obtaining a signoff from the Commissioner of Planning, who shall only approve such a permit upon making all of the following findings:

- 1.10.1 There is currently a *principal building* located on the *lot* which use is either *conforming* or legally *non-conforming*;
- 1.10.2 The request does not create a new *non-conforming use* nor increase any existing non-conformity;
- 1.10.3 The *lot* and *structure* either comply or were previously complying;
- 1.10.4 If the permit requests an expansion or addition to the existing *structures*, such expansion does not create a new non-compliance or increase an existing non-compliance (see below);
- 1.10.5 The permit does not require the removal of more than 75% of the floor space of the existing principal building;
- 1.10.6 The request does not increase the number of dwelling units on the lot, except where the request complies with Section 81.6 concerning the required square feet per unit;
- 1.10.7 The request conforms with the requirements of Section 81.8 and;

- 1.10.8 It is the opinion of the Director of Planning that the property is suitable for the lot and is in general conformity with the surrounding neighborhood.
In the event that the Commissioner of Planning shall disapprove or reject the lot as inappropriate for building, then, the owner or applicant thereof may appeal to the Zoning Board of Appeals, pursuant to the Connecticut General Statutes.
- 1.11 REDUCTION OF LOT AREAS**
No *lot* shall be diminished in area nor shall any *yard* or open space be reduced except in conformity with the provision of this Regulation.
- 1.12 ADAPTIVE REUSE** (Reserved)
- 1.13 VALIDITY AND SEPARABILITY**
It is declared to legislative intent that:
- 1.13.1 **Validity.** If a court of competent jurisdiction finds any provision of these Regulations to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision, and all other provisions of these Regulations shall continue to be separately and fully effective.
- 1.13.2 **Separability.** If a court of competent jurisdiction finds the application of any provision or provisions of these Regulations to any *zoning lot, building* or any *structure*, or tract of land to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the controversy and the application of any such provision to other persons, property, or situations shall not be affected.
- 1.14 **Interpretation.** Any uses not specifically permitted shall be deemed to be prohibited. Any list of prohibited uses contained in any section of these regulations shall be deemed to be not an exhaustive list but to have been included for the purposes of clarity and emphasis and to illustrate, by example, some of the uses frequently proposed that are deemed undesirable and incompatible in the particular district.

SECTION 2 – DEFINITIONS

2. RULES FOR CONSTRUCTION OF LANGUAGE

The following rules of construction apply to the text of this Regulation:

- The particular shall control the general.
- In case of any difference of meaning or implication between the text of this Regulation and any caption, illustration, summary, table, or illustrative table, the text shall control.
- The word *shall* is always mandatory and not discretionary; the word *may* is permissive.
- A **building** or **structure** includes any part thereof
- Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural singular, unless the context clearly indicates the contrary.
- The phrase *used for* includes *arranged for, designed for, intended for, maintained for, or occupied for*.
- The word *person* includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- The word *includes* shall not limit a term to the specified example(s), but is intended to extend its meaning to all other instances or circumstances of like kind or character.

2.1 UNDEFINED TERMS

The definitions following shall apply to all parts of the Zoning Regulation. Words not defined in this Regulation shall be as defined in the most current edition of Merriam-Webster's Collegiate Dictionary.

Words in ***boldface italic*** in this Regulation are defined in this section or in an applicable section if their use is limited.

2.2 DEFINITIONS

ABANDONMENT: The voluntary discontinuance of the use of the property in a non-conforming manner for a period of three (3) months.

ACCESSORY APARTMENT: A portion of a ***single-family dwelling*** within which exists additional separate cooking facilities. Such apartment is not a separate and distinct ***dwelling*** and must have freely accessible interior access to the principal ***dwelling unit***. An ***accessory apartment*** shall not have more than one (1) bedroom or a floor area of more than 550 square feet and shall not be occupied by persons not related by blood, marriage or adoption to the occupants of the main dwelling.

ACCESSORY BUILDING: Any ***building*** which is subordinate to and whose use is incidental and supplementary to the use of the ***principal building*** on the same ***lot***. A detached ***building*** is one which is not attached to the ***principal building*** by any covered porch, breezeway, or other roofed structure.

ACCESSORY USE: A land use located on the same ***lot*** which is incidental and subordinate to that of the main building or ***use*** of the land.

AGE-RESTRICTED HOUSING: Housing whose occupancy is restricted to individuals age 55 or older.

ALLEY: A thoroughfare through the middle of a block giving access to the rear of ***lots*** or ***buildings***.

AMUSEMENT CENTER: see ARCADE

APPEAL: A request for a review of the interpretation of any provision of this regulation by the Zoning Enforcement Officer or City Planner or a request for a variance of such interpretation.

ARCADE: Any **building** or premise whose primary use is for commercial mechanical or electronic games which contains three (3) or more electronic and/or mechanical pinball and/or video machines.

AS-OF-RIGHT: A **use** that is permitted by the West Haven Zoning Regulation without review by a City Board or Commission.

BASE FLOOD: The flood having one percent (1%) chance of being equaled or exceeded in any given year; also referred to as the 100-year flood.

BASEMENT: A **story** (or portion of a **story**) two feet above grade level, with at least one-half of its height (measured from floor to ceiling) below the average grade level.

BED & BREAKFAST: A private home occupied by the owner in which rooms are rented daily and breakfast is provided. (See Hotel)

BLOCK: A tract of land bounded by:

- (a) streets;
- (b) railroad or interstate highway rights-of-way;
- (c) shorelines; or
- (d) corporate boundary lines of the City of West Haven.

BOARD: Zoning Board of Appeals of the City of West Haven.

BOARDING HOUSE: See **Rooming House**.

BOATING FACILITY: A facility for berthing and securing recreational craft for more than three, but less than ten, boats serving neighborhood residents exclusively.

BREAKAWAY WALL: Any type of wall, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material which are not part of the structural support of the building and which are so designed as to break-away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters.

BUFFER: An area the width of which is designated by the most restrictive applicable section of these regulations, or greater when required by the **Commission**, to be used solely for the protection of adjoining and surrounding properties by planting, grass, landscaping, screening, opaque fences, or other such means required by the **Commission**.

BUILDABLE AREA: A rectangular area that contains no **wetlands**, flood plain, utility or access easements, rights of way.

BUILDING: Any **structure** which:

- (a) is permanently affixed to the land; and
- (b) has one or more floors and a roof; and
- (c) is bounded by either areas or the lot lines of a zoning lot and intended for the shelter, housing or enclosure of persons, animal, or material. A building may be detached, attached, or semi-detached from other buildings.

BUILDING AREA: The ground area enclosed by the walls of a **building** together with the ground area of all covered porches and other roofed portions.

BUILDING COVERAGE: The proportion of the **lot area**, expressed as a per cent, which is covered by the maximum horizontal cross section of a **building** or **buildings**. **Structures** which are below the **finished lot grade** shall not be included in **building coverage**.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the proposed finished grade at the front of the **building** to the highest point of the roof for flat roofs, to the decline of mansard roofs, and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.

BULK: A term used to describe the size of **buildings** or other **structures**, and their relationships to each other and to open areas as lot lines, and therefore includes:

- (a) The size (including height and floor area) of buildings;
- (b) The area of the **lot** upon which a **building** is located;
- (c) The shape of **buildings** or other **structures**;
- (d) The location of exterior walls of **building** or other **structures**; and
- (e) All open areas relating to **buildings** or other **structures**

CARPOR: A non-enclosed **structure**, open on three or four sides, whose primary **use** is for the storage of an automobile.

CAMP TRAILER: (also see RECREATIONAL VEHICLE) A vehicle commonly referred to as a camper, camp trailer, trailer, bus, or motor bus, equipped with sleeping facilities for vacation travel purposes only and not more than 81/2 feet wide or 32 feet in length. A self-contained camp trailer is a camp trailer with its own water storage, flush toilet, and/or bath, and/or shower, and waste holding tank.

CELLAR: see BASEMENT

CHANGE OF USE: The change or modification of a use type as determined by the discretion of the Planning and Zoning Commission (e.g.: retail store to wholesale warehouse, two family to three family dwelling, assembly to fabrication, etc., but not to include shoe store to book store, tool and die shop to grinding shop, etc.).

CHILD DAY CARE SERVICES: The provision of non-overnight care of unrelated children, as defined in the Connecticut General Statutes as further regulated and defined by this Regulation.

CITY: City of West Haven.

COASTAL HIGH HAZARD AREAS or COASTAL FLOOD HAZARD AREAS: An area of special flood hazards extending from off-shore to areas subject to storm surge and high-velocity wave action from storms or seismic sources (V zone - designated on a FIRM MAP as Zone V 1-30, VE or V).

COMMISSION: The West Haven Planning and Zoning Commission.

COMMISSIONER: The Commissioner of Planning and Development or a designee.

COMPLIANCE (COMPLYING): A **lot** or **structure** that meets applicable area and bulk requirements.

CONGREGATE HOUSING: A form of residential environment consisting of independent living assisted by congregate meals, housekeeping and personal services, for persons sixty-two (62) years or older, who have temporary or periodic difficulties with one or more essential activities of daily living such as feeding, bathing, grooming, dressing or transferring.

CONSIGNMENT: A transaction, other than the purchase of goods at wholesale and sold at retail, in which a person **delivers goods** to a merchant **for the purpose of sale**.

CONSIGNMENT SHOP OR STORE: An establishment in which **goods**; such as, clothing, art works, luggage, furniture, musical instruments, homeware items and sporting goods **are sold** for others **on consignment**. This does not include purchase of goods at wholesale and sold at retail.

CONSTRUCTION STAGING AREA: The use of a structure or lot, in whole or in part, for the storage of materials and supplies associated with an off-site transportation, public works and/or private sector construction project.

CONSTRUCTION, STATE OF: Includes substantial improvement, and the date on which the property or lot is cleared of vegetation for the purpose of excavation and inclusive of removal of natural resources.

CONVALESCENT HOME: The term is defined in the "Public Health Code of the State of Connecticut, February, 1994" as may be amended from time to time, as follows:

- (a) A home for the aged;
- (b) A rest home with nursing supervision;
- (c) A chronic and convalescent home;
- (d) A chronic and convalescent home with authorization to care for persons suffering from harmless chronic mental disturbances
- (e) A children's nursing home; and/or with authorization to care for persons suffering from harmless chronic mental unsoundness.

CONVENIENCE STORE/GAS FACILITY: Any building and/or lot not used for repairing or servicing of motor vehicles, but used in part for the retail sale of gasoline, methanol, diesel fuel or other common types of motor vehicle fuel provided such use is in conjunction with convenient dispensing of "consumer goods items", i.e. pre-packaged grocery and dairy products, reading and directional materials, hot snacks, small novelty items and tobacco products

CORNER LOT: see **LOT, CORNER**

COURT: The ground area located within a lot which is bordered by two or more faces of a **building** or **buildings**.

CURB: A concrete edging along a **street** built to City of West Haven specification.

CURB LEVEL: The permanently established grade of the **curb** in front of the lot.

CUSTODIAL CARE FACILITY: A facility which provides custodial care and treatment in a protective living environment for persons accused or convicted of a misdemeanor or a nonviolent felony and residing voluntarily or by court placement, including, without limitation, correctional and post correctional facilities, halfway houses, transitional housing, juvenile detention facilities and temporary detention facilities, such as alternative to incarceration programs approved by the Chief Court Administrator in accord with the Connecticut General Statutes Sec. 53a-39a. This provision is not intended to address disabled individuals pursuant to the Fair Housing Act.

DAMAGE OR DESTRUCTION: The removal, destruction or demolition, whether intentional or unintentional, of existing floor space such that such floor space whether or not continuous, is unusable. For the purpose of this Article, any such damage or destruction that occurs over an extended period of time (but within two years from first occurrence) shall be deemed to be a single event.

DAYCARE: The term **daycare** includes any of the 4 (four) specifically defined daycare uses listed below. The following definitions conform to the daycare permit categories defined by Public Act 82-35 of the Connecticut General Statutes.

- a. **Child daycare center** - Any premises used for care of more than 12 children, and meeting all standards of the Connecticut Department of Health Services.
- b. **Group daycare home** - Any premises used for the care of not less than 7 nor more than 12 related or unrelated children, and meeting all standards of the Connecticut Department of Health Services.

- c. **Family daycare home** – A private family home caring for not more than 6 children, including the provider's own children not at school full time, and meeting all standards of the Connecticut Department of Health Services.
- d. **Special workplace daycare** – Any above-described use primarily serving employees of the immediate zoning district in which the workplace is located.

DECK: An adjoining elevated wooden area attached to the **primary structure**.

DEVELOPMENT: Any man made change to improved or unimproved real estate, including but not limited to, **buildings**, or other **structures**, mining, dredging, filling, grading, paving, excavation or drilling operations.

DIRECTOR OF PLANNING: See COMMISSIONER.

DISCONTINUANCE: The intentional or unintentional cessation of a nonconforming use of the property on a daily basis.

DISTRICT: Zone or area designated and established by this Regulation.

DISTURBED AREA: An area where the ground cover is destroyed or removed that leaves the land subject to accelerated erosion. A lot located in any district shall be deemed to be "disturbed" if more than two (2) trees of 12 inches or more in diameter per 6,000 square feet of lot area are removed.

DORMITORY: A **building** or part of a **building** operated by an institution containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.

DRIVE-IN ESTABLISHMENT: A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to either serve patrons while in the motor vehicles or else intended to permit consumption in the motor vehicle of food or beverage obtained by a patron from said business establishment. (e.g, restaurants, service stations, cleaners, banks, theaters, etc.)

DRIVEWAY: A portion of a **building lot** that is used for movement of vehicular traffic.

DWELLING: A **building** containing one or more **dwelling units**, but, in the case of a **building** having two or more portions divided by one or more party walls forming a complete separation, each such portion shall be considered to be a separate **dwelling**.

UNBROKEN LINE THROUGH SOLID EXTERIOR WALLS AND PARTY WALLS

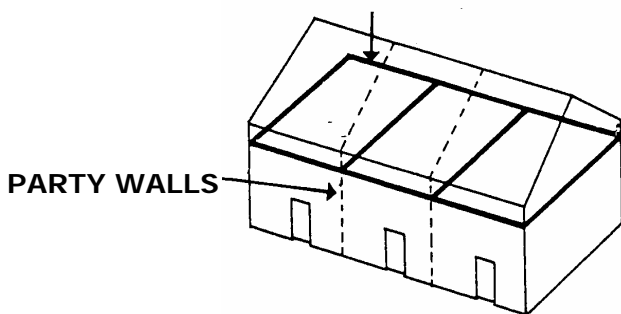


Illustration 2.2.1. Dwelling.

DWELLING, ATTACHED: A **dwelling** having any portion of each of two walls in common with adjoining **dwellings**.

DWELLING, DETACHED: A **dwelling** having open space on all sides.

DWELLING, MULTI-FAMILY: Any **building** (including a condominium) having three or more **dwelling units**, or a **dwelling** that has three or more **dwelling units**.

DWELLING, SEMI-DETACHED: A **dwelling** having any portion of one wall in common with an adjoining **dwelling**.

DWELLING, SINGLE-FAMILY: A **dwelling** having only one **dwelling unit** from ground to roof and having independent outside access.

DWELLING, TWO-FAMILY: A **building** that accommodates no more than two families, including a duplex, which does not have a party wall or walls in common with any other adjacent house or houses.

DWELLING, THREE-FAMILY: A **building** that accommodates no more than three families, including a duplex, which does not have a party wall or walls in common with any other adjacent house or houses.

DWELLING UNIT: One or more rooms in a **building** which is arranged, designed, used or intended for use by one or more persons living together and maintaining a common household that includes lawful cooking space and sanitary facilities as defined in building and sanitary codes, reserved for the occupants thereof.

EFFICIENCY UNIT: A **dwelling unit** having only one room exclusive of bathroom, water closet compartment, kitchen, laundry, pantry, foyer, communicating corridor, closets or any dining alcove with less than 70 square feet of floor space. In no event shall the gross floor area of an efficiency unit exceed 500 square feet.

ELDERLY HOUSING UNIT: A **dwelling unit** specifically designed for the needs of an elderly person or persons, and conforming to the requirements of State and/or Federal programs providing for housing for the elderly.

ELDERLY HOUSING: A housing project sanctioned by federal, state or local government that restricts its residents to retired, handicapped or elderly individuals, including senior citizen housing and **congregate housing**.

ENLARGEMENTS OR EXTENSIONS: An increase in the **building** or **structure** size or an increase in **lot coverage**.

EXPANSION OF USE:

- 1) The change of a **non-conforming use** to a **use** determined to be less-conforming, or
- 2) The addition of another **non-conforming use** to an existing **non-conforming use**, or
- 3) The increase in intensity of an existing **non-conforming use** (including additional dwellings).

FAMILY: A person living alone, or any of the following groups living together, with any domestic servants or gratuitous guests thereof, as a single non-profit housekeeping unit and sharing common, bathing, sleeping, cooking and eating facilities, sharing at least one common living room space:

- (a) any number of people related by blood, marriage, adoption or legally recognized foster relationship;
- (b) a group of up to four (4) people who need not be so related with up to an additional four (4) people related to a person in the group by blood, marriage, adoption or legally recognized foster relationship;
- (c) not more than eight (8) people who are disabled as defined in the Fair Housing Act, 42 USC §3602 (h) and this Regulation as well as one (1) facility manager. This definition does not include those persons currently illegally using a "controlled substance" as defined in the Controlled Substances Act, 21 U.S.C. s 802 (6) or those persons claiming to be disabled solely on the basis of having been adjudicated a juvenile delinquent, having a criminal record or being a sex offender.

Exceptions – "Family" does not include and shall not be interpreted to include the following facilities addressed in this and other sections of this Regulation: Convalescent Homes

(including hospices), Rest Homes, Nursing Homes and Sanitariums, Rectories, Convents, Rooming, Boarding or Lodging Houses, Fraternities, Sororities, Custodial Care Facilities or Dormitories.

Note – For the purposes of this Regulation, the term “disabled” shall have the same meaning as the term “handicapped” as contained in the Fair Housing Act.

FAMILY DAYCARE HOME, see DAYCARE

FARM: A residential property consisting of at least 3 acres with a **dwelling** which is used for agricultural purposes for the keeping of domesticated animals. A farm may include sheds, barns, or other customary accessory uses, provided there is no commercial tannery, packing, or slaughtering of animals.

FENCE: A decorative or functional barrier including any wall, hedge, or other obstruction dividing a lot or lots.

FINISHED LOT GRADE: See LOT GRADE, FINISHED

FLEA MARKET: A commercial market which sells used or new goods either inside or outside of a building on a permanent or semi-permanent daily or weekly basis.

FLOOR AREA, GROSS: The sum of the gross horizontal areas of the several floors of a **building**, measured from the exterior faces of exterior walls (and from the center lines of party walls if the portions of the **building** separated by such party walls are to be treated separately), including:

- a. basement space where more than one-half the basement height is above the **average grade** along the exterior walls of the **building**,
- b. elevators and stairwells at each floor,
- c. enclosed porches, interior balconies and mezzanines, and penthouses; and excluding floor space permanently devoted to mechanical equipment used in the operation and maintenance of the building, and floor space permanently devoted to a **parking space** or **parking spaces**, and
- d. attic space, whether or not a floor has been laid, over which there is structural headroom of seven (7) feet or more.

FLOOR AREA, NET: The total floor area within a **building** devoted or intended to be devoted to a particular **use**, with structural headroom of seven feet six inches (7'-6") or more, whether above or below the **finished lot grade**, excluding:

- a. elevators, stairwells, hallways, walls and partitions, and
- b. floor space permanently devoted to a **parking space(s)**, mechanical equipment, closets, washrooms, or other items permanently preventing the floor space from being occupied by persons while engaged in the **use**.

FLOOR AREA RATIO: The ratio of the **gross floor area** of the **principal building** or **principal buildings** on a **lot** to the total **lot area**.

FUNCTIONALLY DEPENDENT FACILITY: A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as docking or port facility necessary for the loading and unloading of cargo, passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

GARAGE: A detached accessory building or a portion of a main building for parking of vehicles belonging to the occupants of the premises and in which no occupation or business for profit is carried. A detached garage may have a maximum height of 15 feet and a ground floor area that is the greater of 750 square feet or fifty per cent (50%) of the

principal building ground floor area. A storage area above a detached garage shall have a height of no more than six feet six inches (6FT – 6 IN).

GRADE, AVERAGE: The proposed finished elevation along a wall adding and dividing by two the elevation of each wall corner.

GRADING: Any excavating, grading, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including land in excavated or filled condition.

GROSS FLOOR AREA: see FLOOR AREA, GROSS

HAWKER OR PEDDLER: A person, corporation, limited liability company or partnership, whether principal or agent, who goes from **town to town or from place to place** in the same town selling or bartering or carrying for sale or barter, or exposing therefore, any goods wares or merchandise, either **on foot or from any animal or vehicle**.

HEIGHT, see BUILDING HEIGHT

HIGH WATER LINE: The line of the highest annual tide.

HOME OCCUPATION: Any use customarily conducted entirely within a *dwelling* or an *accessory building* to a *dwelling* which use is clearly incidental and secondary to the use of the *dwelling* for dwelling purposes and carried on by the residents of the premises employing not more than one person on the premises who is not a resident thereof. Home occupations may include, but need not be limited to: accountant, architect, artist, author, consultant, dressmaker, lawyer, professional office, or teacher, but does *not* include animal hospital, auto-repair, barber, beautician, massage therapist or masseuse, musician, restaurant, tavern, tearoom, or veterinarian.

HOSPITAL: A *building* licensed by the State Department of Health having facilities, medical staff, and all necessary personnel to provide diagnosis, care, and treatment of a wide range of acute conditions or chronic diseases, including injuries on an inpatient and outpatient basis.

HOTEL: A *building* providing lodging for persons, with or without meals and intended primarily for the accommodation of transients and so designed that normal access to the rooms is through a public lobby.

IMPERVIOUS SURFACE COVERAGE: Paved or covered ground surface including driveways, walkways, and parking areas (but excluding *BUILDINGS* or *STRUCTURES*).

INCIDENTAL REPAIRS OR ALTERATIONS: The replacement, upgrading or renovation of existing *building* characteristics or systems, provided that such work does not create any additional units, rooms, or a greater degree of lot coverage.

INN: see *HOTEL* above

ITINERANT VENDOR: A person, whether principal or agent, who **engages** in a **temporary or transient business** traveling from place to place selling goods, wares and merchandise.

JUICE BAR: An establishment whose primary purpose is to sell or serve non-alcoholic beverages for immediate consumption, including entertainment accessory thereto. Entertainment may be live or recorded music for dancing and/or enjoyment by patrons. Entry to the establishment may be available to the public, limited to members only, or members and "guests", with or without a fee.

JUNKYARD: That portion of a *lot*, whether in part or entirety, on which is accumulated for collection, sale or storage of material to include not limited to glass, bottles, newspaper,

metal, paper, cordage, or other waste material that is non-enclosed or not permitted through these regulations under specific sections. See also MOTOR VEHICLE RECYCLER'S BUSINESS OR YARD.

LANDFILL AND FILLING OPERATIONS: The deposit of any fill material that would alter an existing surface drainage pattern or watercourse; or create a surface pitch in excess of five (5) percent; or raise an existing elevation by more than three (3) feet over an area of more than 5,000 square feet, as determined by the Planning Director or Zoning Enforcement Officer.

LOADING SPACE: An off-street space available for the standing, loading or unloading of one truck, excluding adequate maneuvering area.

LODGER: See *ROOMER, BOARDER OR LODGER*

LODGING HOUSE: See *ROOMING, BOARDING OR LODGING HOUSE*

LOT: A plot or parcel of land under the same ownership occupied or capable of being occupied pursuant to applicable area and bulk regulations by one or more principal buildings and/or the accessory buildings or uses customarily incident to it including such yards and areas as are required by these regulations. A lot may or may not be the land shown on a recorded deed or plot.

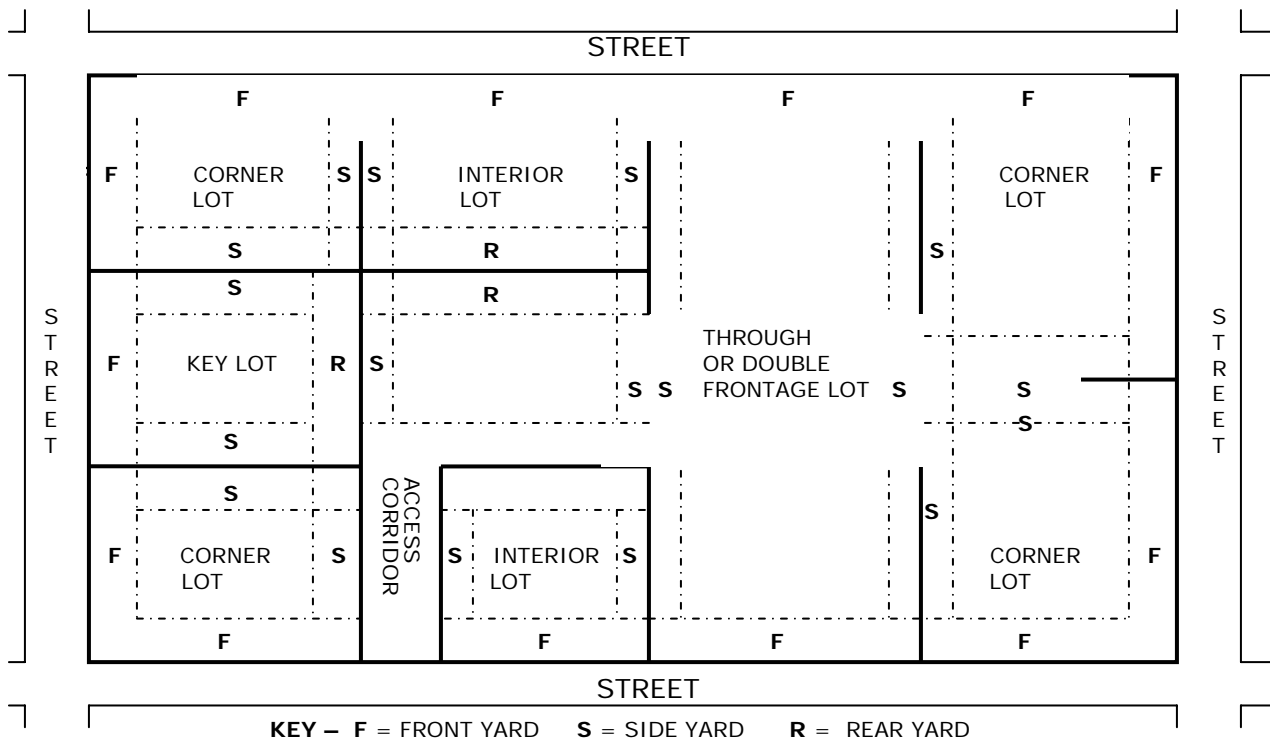


ILLUSTRATION 2.2.2 LOT AND YARD TYPES.

LOT AREA: The total horizontal area of a *lot* lying within the *lot lines* and excluding any area lying beyond a *street line*.

LOT AREA PER DWELLING UNIT: The amount of *lot area*, whether occupied by *structures* or not, that exists proportionate to each *dwelling unit* located on the *lot*.

LOT, CORNER: A *lot* bounded on two or more sides by intersecting *streets*.

LOT COVERAGE: The portion or percentage of a **lot** occupied or intended to be occupied by all **buildings, structures**, plus paved or covered ground surface including driveways, walkways, and parking areas that are impervious surfaces.

LOT, FLAG or CORRIDOR: A lot connected to a street by an access corridor having a width of not less than 16 feet or more than 25 feet and not more than 250 feet long.

LOT, INTERIOR: Any **lot** neither a **corner lot** nor a **through lot**

LOT LINE: Any boundary of a **lot**, except where a lot contains a body of water or **tidal wetlands** the **lot line** shall be the high water mark or the boundary of the **inland** or **tidal wetland**.

LOT, THROUGH: A **lot** which adjoins two non-intersecting **street lines** opposite to each other.

LOT WIDTH AND DEPTH: The distance between the side **lot lines** measured in a straight line at right angles to the mean direction of such side **lot lines** which line of measurement shall be parallel to the front line at the **front yard** depth required by these regulations, the depth of a **lot** is the mean distance from the **street line** of the **lot** to its rear **lot line**, measured in the direction of the lines of the **lot**.

MASSAGE THERAPY: The systematic and scientific manipulation and treatment of the soft tissues of the body, by use of pressure, friction, stroking, percussion, kneading, vibration by manual or mechanical means, range of motion and nonspecific stretching.

MARINA: (also see **BOATING FACILITY**) A boat basin having facilities for 10 boats or more for berthing, securing, and servicing of recreational craft, the sale of marine motors, the sale and brokerage of recreational craft as well as providing adequate supplies, provisions, storage, and fueling and other facilities for the same including parking.

MEAN HIGH WATER MARK: The average height of all apparent high water marks recorded over a 19 year period or a computed equivalent period.

MEAN SEA LEVEL: The average height of the surface of the sea for all stages of the tide, usually determined from hourly readings during any given period. For the purpose of these regulations, mean sea level shall be deemed to be an elevation of 0.0 feet (USGS datum, MSL).

MEDICAL CLINIC: A **building** licensed by the State Department of Health having facilities, medical staff, and all necessary personnel to provide diagnosis, care, and treatment of a wide range of acute conditions of chronic diseases or injuries on an outpatient basis.

MERGER: A **lot** shall be construed to have **merged** with an adjoining lot under the "Doctrine of Merger" whenever two or more parcels of land are consolidated through a combined use, by common owner(s). One or more lots shall have merged by the establishment of any permanent **accessory use** on a parcel of land contiguous with the parcel on which the **principal building** is located.

MERGER OF LOTS: The combined **use**, including **use** by **accessory use**, of one or more recognized **lots**.

MOBILE HOME: Any vehicle having no motor power of its own, but which is, has been or may be drawn by a motor vehicle, whether resting on wheels, jacks, or other foundation and is arranged, intended, designed or used for non-temporary human habitation or as a place in which a person(s) may eat, sleep, work or congregate. A **mobile home** shall include the type of vehicle also known as a trailer, but shall not include the type of vehicle commonly known as a **recreational vehicle** or **RV** intended for temporary habitation.

MOBILE HOME PARK: A **lot**, parcel or area of land on which one or more mobile homes are placed for the purpose of a permanent dwelling.

MOTEL: A **building** providing lodging for persons, with or without meals, primarily intended to accommodate transients and so designed that access to the rooms is direct from the out-of-doors. **Motel** shall also include Motor Hotel and Boatel.

MOTOR VEHICLE RECYCLER'S BUSINESS OR YARD: A **junk yard**, motor vehicle junk business, motor vehicle recycler's business or yard as defined in State Statutes. Any business and any place of storage or deposit, whether in connection with any business or not, which has stored or deposited two or more unregistered motor vehicles that are no longer intended or in condition for legal use on the public highways or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part of any motor vehicle, the sum of which parts or materials shall be equal in bulk to two or more vehicles. Said term shall also include any place of business of storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap and where it is intended to cut up parts thereof.

MULTI-FAMILY DWELLING: see DWELLING, MULTI-FAMILY.

NATURAL DISASTER: An act of GOD to include damage by wind, precipitation, lightning, accidental fire, or earth movement.

NIGHT CLUB: A commercial enterprise whose primary function is to supply music or live entertainment or both and which may provide food and/or beverage for on-premises consumption.

NON-BUILDING USE: A **principal use** of land to which the **building** on the **lot**, if any, are accessory, such as a trailer park, junk yard, public parking lot, or an open storage yard of materials.

NON-COMPLYING OR NON-COMPLIANCE: Any lawful use, whether of a building or other structure which does not comply with any one or more of the applicable district area and/or bulk regulations, either on the effective date of these regulations or as a result of a subsequent amendment thereto.

NON-INFRINGEMENT AREA: The area designated by the Commission, or these regulations, adjoining a stream, floodway, **wetland**, tidal area, that may not be disturbed, filled, or improved, but may be used. The dimension or width of such an area shall be set by the Commission in view of local conditions in terms of soils, slope, **use**, streams, flood potential, and local geography.

OPEN SPACE: That part of a **lot**, including courts or **yards**, which

- (a) is open and unobstructed from its lowest level to the sky;
- (b) landscaped with vegetation and maintained for recreation or conservation purposes;
- (c) does not include those portions of a **lot** that are utilized for **off street parking, loading, driveway, or building** purposes, but does exclude **courts** or walkways. Material such as, but not limited to, asphalt, stone (processed or unprocessed), concrete or cement shall not be construed as **open space**.

OUTDOOR VENDORS: Individuals seeking to sell wares, fruits, vegetables, other produce, crafts, or any merchandise from a non-permanent location on a private open lot, or other location not in a public street or on a public sidewalk.

OUTSIDE STORAGE: see STORAGE, OUTSIDE

PARK: Any publicly-owned park, playground, beach, parkway, or roadway within the jurisdiction and control of the Board of Park Commissioners (Park Department), except for park strips or malls in a street, the roadways of which are not within the Board's control and jurisdiction.

PARKING AREA: An area other than a street used for the temporary parking of more than three motor vehicles, which has unobstructed access to each *parking space*.

PARKING GARAGE: A *building* or other *structure* that provides parking or storage for motor vehicles, but not for commercial or public utility vehicles or dead storage of motor vehicles.

PARKING LOT, COMMERCIAL: Any tract of land which: (a) is used for the parking or storage of motor vehicles, but not for commercial or public utility vehicles or the dead storage of motor vehicles, and (b) is not accessory to a *use* on the same or adjacent *lot*.

PARKING SPACE: An off-street space available for parking one vehicle (excluding adequate driveways and aisles) and meeting the Regulation requirements of the appropriate district in which such *parking space* is located. The term *parking space* shall include garages, carports, and other enclosed and semi-enclosed spaces for the parking of vehicles.

PASSIVE SOLAR: The environmental design of a *dwelling* or parcel of land so that it has access to passive solar energy for either present or future solar energy use.

PATIO: An area of *lot coverage* for which no building permit or foundation is required. The material use can be rock, wood, asphalt or other stabilizing material to prevent the growth of vegetation.

PAWNBROKER: A person, corporation, limited liability company or partnership, licensed by the state, who engages in the **principal business** of **loaning money** upon **deposits or pledges** of wearing apparel, jewelry, ornaments, household goods or other personal property, or of purchasing such property on condition of selling the same back again at a stipulated price. Such person shall be licensed by the West Haven Police Department in accordance with Sections 173.1 through 173.9 of the West Haven City Code.

PENTHOUSE: That portion of a *building*, the upper most level which contains utility apparatus or connections.

PREMISES: All land comprising a *lot*, and including all *buildings* and *uses* located on the *lot*.

PRINCIPAL BUILDING: A *structure* located on the *lot* in which the principal *use* to which the property is put is conducted. In all zones except R-1, R-2 and R-3, more than one *principal building* may be located on a *lot*.

PRINCIPAL USE: The **primary purpose or business** for which land, premises or a building is designed, arranged or intended or for which it is or may be occupied or maintained. This definition does not include an accessory use or incidental use not inconsistent with the principal use or purpose.

RECREATIONAL VEHICLE: (also see CAMP TRAILER) a vehicle designed for recreational use (as in camping), typically called an RV.

RECYCLING FACILITY: A facility that processes or reuse, bundles or reconstructs materials, such as, but no limited to, paper, cans, bottles, bulk vegetation (leaves, wood, etc.)

RESTAURANT: A commercial enterprise whose primary function is the sale of food and/or beverage for on-premises consumption. Music and/or live entertainment may be provided; however, a dance floor area may not exceed five percent of the gross floor area of the *structure*.

RESTAURANT, FAST FOOD: A commercial enterprise whose principal business is the sale of prepared or rapidly prepared food sold directly to the customer in a ready-to-consume state either within the restaurant building or off premises through a drive-in window.

ROOMER, BOARDER OR LODGER: A person occupying any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes, and paying compensation for lodging or board and lodging by prearrangement for a week or more at a time to an owner or operator who is not the husband or wife, son or daughter, mother or father, or sister or brother of such person.

Any person occupying such room or rooms and paying such compensation without prearrangement or for less than a week at a time shall be classed for purposes of this Regulation not as a *roomer, boarder* or *lodger*, but as a guest of a commercial lodging establishment (tourist home, *hotel* or boatel, *motel, or motor hotel*).

ROOMING, BOARDING OR LODGING HOUSE: A *building* or part of a *building* (other than an institutional *building*) occupied or intended to be occupied by three or more *roomers, boarders* or *lodgers*.

SAND DUNES: Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

SCHOOL, COMMERCIAL: Any business or school operated for the compensation or gain of its owner or operator where students or enrollees are instructed in an area of interest such as, but not limited to, braiding, beauty culture, computers, dancing, judo, sewing or welding.

SCREEN OR SCREENING: Either: (a) A strip of at least ten (10) feet wide densely planted (or having equivalent natural growth) with shrubs or trees (at least four (4) feet high at the time of planting) of a type that will form a year round dense screen at least six (6) feet high within three (3) years: or (b) a strip five (5) feet wide and an opaque wall or barrier or uniformly painted fence at least six (6) feet high. Either (a) or (b) shall be maintained in good condition at all times, in perpetuity, and may have normal entrances and exits.

SEDIMENT: Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

SENIOR CITIZEN HOUSING: see ELDERLY HOUSING UNIT

SETBACK: The horizontal distance from any *street* or *lot line* to any *building, structure, or use*, measured in a straight line from and perpendicular to such *street* or *lot line*.

SHED: A *structure* used for the purpose of storage and having a floor area of not more than 120 square feet with a maximum height to its peak of not more than twelve (12) feet.

SHOPPING CENTER, NEIGHBORHOOD: A complex of shopping facilities whose total building area is less than 50,000 square feet catering to the shopping need of the residents of the neighborhood and with off-street parking facilities for less than 200 automobiles.

SHOPPING CENTER, REGIONAL: An area originally planned and developed as a single unit, having a total ground floor building area of not less than 50,000 square feet with immediate adjoining off-street parking facilities for not less than 200 automobiles.

SIGN: Any device for visual communication use for the purpose of bringing the subject thereof to the attention of the public, but not including any flag or insignia of any government or governmental agency, or any fraternal, civic, charitable, or religious organization.

SIGNIFICANT NATURAL RESOURCES: Included, but not limited to, *tidal* and *inland wetlands*, streams, creeks, marshes, wildlife habitats, beaches, ponds, aquifer recharge areas, drainage basins for public water supply and storm water retention, and public open space.

SINGLE-FAMILY DETACHED DWELLING, see DWELLING, SINGLE FAMILY DETACHED.

SITE IMPROVEMENT: The alteration of existing features of a site pursuant to construction, reconstruction, conversion, structural mining, and any change in the use of any **building** or other **structure**, or land, or extension of the use of land, except agricultural land uses not requiring a building permit or zoning permit.

SLOPE: Inclination of the land surface from the horizontal; percentage of slope is the vertical distance divided by horizontal distance, multiplied by 100.

SOIL: Any consolidated mineral or organic material of any origin.

SOLICITORS: Persons who **request orders**, directly or indirectly for money, credit, property, financial assistance or **for purchase for future delivery** of any goods, wares or merchandise or any kind of value from door to door on any street or highway. Such persons shall register with the West Haven Police Department in accordance with Sections 174.1 through 174.9 of the West Haven City Code. Such definition may include peddlers, but **shall exclude non-profit, civic or charitable organizations.**

STATE: The State of Connecticut.

STORAGE, OUTSIDE: Storage of materials, supplies, goods or items in a non-enclosed structure.

STORAGE SHED: See SHED.

STORY: That part of a **building** which is between the surface of a floor and the ceiling immediately above and has structural headroom of seven feet or more, excluding any such space which is contained in a cellar that is not more than one-half above the **finished lot grade** averaged along the **building's** exterior walls, and also excluding any such space that is not suitable for human habitation but devoted permanently to mechanical equipment used in the **building's** operation and maintenance

STORY, HALF: Any space within a **building** under a gable, hip or gambrel roof, the floor surface of which is not more than two (2) feet below the plate when measured along the exterior wall and where the height of said space does not exceed seven feet six inches (7'-6") for over sixty percent (60%) of the total floor area of said space as measured from the floor surface to ceiling surface or in its absence, the bottom of the roof beams.

STREET: A public way or a way opened to the public use or other right-of-way giving access to a **lot**, but not excluding an alley for service access only. **Street** shall be deemed to include the entire width of the right-of-way.

STREET FRONTAGE: The width of the **lot** along the **street line**, except where the **lot** narrows within the front yard **setback**, and then it is the mean distance calculated along the **street line** and a line parallel to the public street at the **front yard setback**.

STREET LINE: The line separating private property from a **street** or **alley** existing or dedicated in public ownership

STREET WALL: A wall or portion of a wall of a **building** facing the **street**.

STRUCTURE: Anything constructed or erected which requires location on the ground or attachment to something having location on or in the ground.

TAKE OUT RESTAURANT: A **use** whose primary function is for the serving of food to be eaten outside of the **building** and does not provide seating for its clientele.

TEMPORARY OR TRANSIENT BUSINESS: Any exhibition and **sale of goods**, wares or merchandise which is carried on in any **tent, booth, building, trailer or other structure or in the open** on a parcel or lot. This **does not include the sale of Christmas trees** by a non-profit or civic organization.

TERRACE: see PATIO.

THREE-FAMILY DWELLING: see DWELLING, THREE-FAMILY

TWO-FAMILY DWELLING: see DWELLING, TWO-FAMILY

TOP SOIL: Surface soil usually including the organic layer in which plants have most of their roots.

TOOL SHED: see STORAGE SHED.

UNIT: see Dwelling Unit.

USE: Any activity, occupation, business or operation carried on, or intended to be carried on in a **building** or other **structure** or on a tract of land.

USE, ACCESSORY: A **use** located on the same **lot** with a **principal use** that is clearly incidental or subordinate to and customarily in connection with the **principal use**.

USE, NONCONFORMING: A **use, structure** or **lot** which existed lawfully, whether by variance or otherwise, on the date this Zoning Regulation or any amendment thereto became effective, and that fails to conform to one or more of the applicable regulations in the Zoning Regulation or such amendment thereto.

VEGETATION: Plant life in general to include, but not limited to trees, bushes and grass.

VEHICLE: Any motor vehicle as defined by the General Statutes of the State of Connecticut, as amended.

WETLAND, TIDAL OR INLAND: An area designated as tidal wetland by the Department of Environmental Protection, State of Connecticut, or as an "Inland Wetland or Water Course" by the Inland Wetlands Agency.

YARD: That portion of a **lot** extending open unobstructed from the ground to the sky along the entire length of a **lot line** and from the **lot line** for a depth and width set forth in the applicable district **yard** regulations.

(See Illustration 2.2.2 Lot and Yard Types, Lot Area on page 2-9 and definitions of Yard types that follow below.)

YARD, FRONT: A **yard** extending across the full width of the **lot** and lying between the front line of the **lot** (the **street line**) and a parallel line at a distance there from as specified by these regulations. In the case of a **through lot** or **corner lot**, both **yards** which abut the **street** shall be deemed **front yards**.

YARD, REAR: A **yard** extending across the full width of the **lot** and lying between the rear **lot line** and parallel line at a distance there from as specified in these regulations. In the case of a **through lot**, both yards which abut the street shall be **front yards**.

YARD, SIDE: A **yard** extending along a side **lot line** from the front **lot line** to the rear **lot line**. In the case of a **corner lot**, any **yard** which abuts a street shall be considered a **front yard**.

ZONE (District): Any portion of the City set aside on the Zoning Map having separate requirements established by these Regulations.

ZONING ENFORCEMENT OFFICER (ZEO): One or more people designated to enforce the City of West Haven Zoning Regulation.